

# The Immoral Traffic (Prevention) Act, 1956

## (PREVENTION) ACT, 1956<sup>1</sup>[104 of 1956]

[30th. December, 1956.]

An Act to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950, for <sup>2</sup>[the Prevention of immoral traffic]. Be it enacted by Parliament in the Seventh Year of the Republic of India as follows: -

**1.Short title, extent and commencement** - (1) This Act may be called <sup>3</sup>[the Immoral Traffic (Prevention)]Act, 1956.  
(2) It extends to the whole of India.  
(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date<sup>4</sup> as the Central Government may, by notification in the Official Gazette, appoint.

### COMMENTS

The Act extends to all the States as well as the Union Territories. The provisions of this Act (except that of section) came into force the 1st May, 1958. *vide* GSR 269 dated 16-4-1958 published in the Gazette of India, Part-II-Section 3(i) p.203.

**2.Definitions.** - In this Act, unless the context otherwise requires –

(a) "brothel" includes any house room, <sup>5</sup>[ conveyance] or place or any portion of any house, room, [ conveyance] or place, which is used for purposes <sup>6</sup>[ of sexual exploitation or abuse] for the gain of another person or for the mutual gain of two or more prostitutes; <sup>7</sup>[(aa) "child" means a person who has not completed the age of sixteen years;]

<sup>1</sup>[[<sup>2</sup>(b)] "corrective institution" means an institution, by whatever name called (being an institution established or licensed as such under section 21), in which <sup>3</sup>[persons], who are in need of correction, may be detained under this Act, and includes a shelter where <sup>4</sup>[undertrials] may be kept in pursuance of this Act;]<sup>5</sup>X X X X X

<sup>6</sup>[(c) "magistrate" means a magistrate specified in the second column of the Schedule as being competent to exercise the powers conferred by the section in which the expression occurs and which is specified in the first column of the Schedule;] <sup>7</sup>[(ca) "major" means a person who has completed the age of eighteen years; (cb) "minor" means a person who has completed the age of sixteen years but has not completed the age of eighteen years;]

(d) "prescribed" means prescribed by rules made under this Act; <sup>8</sup>X X X X X <sup>9</sup>[

<sup>10</sup>(e) "prostitution" means the sexual exploitation or abuse of persons for commercial purposes, and the expression "prostitute" shall be construed accordingly;]

(f) "protective home" means an institution by whatever name called (being an institution established or licensed as such under Section 21), in which <sup>11</sup>[persons], who are in need of care and protection, may be kept under this Act <sup>12</sup>[and where appropriate technically qualified persons, equipment and other facilities have been provided], but does not include-

a shelter where <sup>13</sup>[undertrials] may be kept in pursuance of this Act, or

a corrective institution;]

(g) "public place" means any place intended for use by, or accessible to, the public and includes any public conveyance;

(i) "special police officer" means a police officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act;

<sup>1</sup>[(i) "trafficking police officer" means a police officer appointed by the Central Government under sub-section (4) of section 13.

## **COMMENTS**

Clause (aa):

"Child means a person who has not completed the age of 16 years.

"major" means a person who has completed the age of 18 years. [Clause (ca)]

"minor" means a person who has completed the age of 16 years but has not completed the age of 18 years. [Clause (cb)]

Clause (g):

"protective home" is distinct from "corrective institution".

Clause (i):

Every police officer is not a " special police officer" for the purposes of this Act.

Clause (j):

The Central Government alone can appoint "trafficking police officer".

Prostitution A prostitute is a woman who offers her body to indiscriminate sexual intercourse, especially for hire. [Oxford Dictionary] [Razia v. State of U.P., AIR 1957 All. 340].

A woman, should surrender her body for monetary consideration to someone who is not legally entitled to have sexual intercourse with her. [The Emperor v. Lalya Bapu Jadhav, AIR 1929 Bombay 266].

Prostitution involves indiscriminate employment of a woman's body for hire. [In re :Deva Kumar, 1972 Madras Law Journal (Criminal) 150]. Prostitution suggests sexual relations for hire [Cleveland v. U.S. Utah 67 S.Ct. 13.] Sexual intercourse is not synonymous with prostitution. [Commonwealth v. Kanier, 3 Pa. co. 276]. "Promiscuous" implies "indiscriminate". [In re: Ratna Mala, AIR 1962 Madras 31].

Any person who keeps or maintains or acts or assists in the keeping and management of a brothel, is liable to be punished under this section. [The State of Rajasthan v. Mst.Wahida, 1981 Rajasthan Criminal Cases 42].Brothel solitary instance of prostitution in a place does not make the place a "brothel". [Sushila v. State of T.N., 1982 CrI. L.J. 702 (Madras)] Prostitute or prostitutes must be strangers to the Occupancy. [The Emperor v. Versimal Bahagiomal, (1913) 14 CrI. L.J. 282]. Residence of a single woman who practices prostitution for her own livelihood, will not amount to a brothel. [In re: Ratnamala, AIR 1962 Madras 31]. Prostitution of a woman should be for the gain of another person as to the premises to be called as brothel. [In re: John, AIR 1966 Madras 167]. The people of opposite sexes come to and have illicit intercourse on the premises. [Winter v. Wolfe, 1930(29) Cox 214].

A place used once for the purpose of prostitution may not be a brothel. [Krishnamurthy v. Public Prosecutor, 1967 CrI. L.J. 544 (SC.)]. There must be at least 2 women using the premises for purposes of prostitution to constitute the same as "brothel". {Coldwell v. Leech, 1913 (109) L.T. 183} Public Place A public place is one where the public go, or if people are allowed access to it. [Ram Karan Lal v. The Emperor, AIR 1916 Nagpur 15]

Omnibus, railway platform, public urinal, unfenced compound, part of compound of a temple, harbour premises, etc. are "public places". A public place is one which is in full view of the public and one to which the public has access. [In re: Lala, AIR 1930 Oudh 394].

[2A. Rule of construction regarding enactments not extending to Jammu and Kashmir.- Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to the State, be construed as a reference to the corresponding law, if any, in force in that State].

## COMMENTS

It is clarified that any reference in this Act to a law, if not enforced in the State of Jammu and Kashmir, has to be construed as a reference to the corresponding law, if any, in force therein.

**Punishment for keeping a brothel or allowing premises to be used as a brothel.** (1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than one year and not more than three years and also with fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees. (2) Any person who- being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any other person to use, such premises or any part thereof as a brothel.